

[As Amended by House Committee of the Whole]

As Amended by House Committee

Session of 2009

HOUSE BILL No. 2275

By Representative Kelley

2-4

12 AN ACT establishing a program of ~~random~~ drug screening for ~~public~~
13 ~~cash~~ assistance ~~applicants and~~ recipients; amending K.S.A. 2008 Supp.
14 39-709 ~~and 60-4117~~ and repealing the existing ~~sections~~ **section**.
15

16 *Be it enacted by the Legislature of the State of Kansas:*

17 Section 1. K.S.A. 2008 Supp. 39-709 is hereby amended to read as
18 follows: 39-709. (a) *General eligibility requirements for assistance for*
19 *which federal moneys are expended.* Subject to the additional require-
20 ments below, assistance in accordance with plans under which federal
21 moneys are expended may be granted to any needy person who:

22 (1) Has insufficient income or resources to provide a reasonable sub-
23 sistence compatible with decency and health. Where a husband and wife
24 are living together, the combined income or resources of both shall be
25 considered in determining the eligibility of either or both for such assis-
26 tance unless otherwise prohibited by law. The secretary, in determining
27 need of any applicant for or recipient of assistance shall not take into
28 account the financial responsibility of any individual for any applicant or
29 recipient of assistance unless such applicant or recipient is such individ-
30 ual's spouse or such individual's minor child or minor stepchild if the
31 stepchild is living with such individual. The secretary in determining need
32 of an individual may provide such income and resource exemptions as
33 may be permitted by federal law. For purposes of eligibility for aid for
34 families with dependent children, for food stamp assistance and for any
35 other assistance provided through the department of social and rehabil-
36 itation services under which federal moneys are expended, the secretary
37 of social and rehabilitation services shall consider one motor vehicle
38 owned by the applicant for assistance, regardless of the value of such
39 vehicle, as exempt personal property and shall consider any equity in any
40 additional motor vehicle owned by the applicant for assistance to be a
41 nonexempt resource of the applicant for assistance.

42 (2) Is a citizen of the United States or is an alien lawfully admitted
43 to the United States and who is residing in the state of Kansas.

1 (b) *Assistance to families with dependent children.* Assistance may be
2 granted under this act to any dependent child, or relative, subject to the
3 general eligibility requirements as set out in subsection (a), who resides
4 in the state of Kansas or whose parent or other relative with whom the
5 child is living resides in the state of Kansas. Such assistance shall be known
6 as aid to families with dependent children. Where husband and wife are
7 living together both shall register for work under the program require-
8 ments for aid to families with dependent children in accordance with
9 criteria and guidelines prescribed by rules and regulations of the
10 secretary.

11 (c) *Aid to families with dependent children; assignment of support*
12 *rights and limited power of attorney.* By applying for or receiving aid to
13 families with dependent children such applicant or recipient shall be
14 deemed to have assigned to the secretary on behalf of the state any ac-
15 crued, present or future rights to support from any other person such
16 applicant may have in such person's own behalf or in behalf of any other
17 family member for whom the applicant is applying for or receiving aid.
18 In any case in which an order for child support has been established and
19 the legal custodian and obligee under the order surrenders physical cus-
20 tody of the child to a caretaker relative without obtaining a modification
21 of legal custody and support rights on behalf of the child are assigned
22 pursuant to this section, the surrender of physical custody and the as-
23 signment shall transfer, by operation of law, the child's support rights
24 under the order to the secretary on behalf of the state. Such assignment
25 shall be of all accrued, present or future rights to support of the child
26 surrendered to the caretaker relative. The assignment of support rights
27 shall automatically become effective upon the date of approval for or
28 receipt of such aid without the requirement that any document be signed
29 by the applicant, recipient or obligee. By applying for or receiving aid to
30 families with dependent children, or by surrendering physical custody of
31 a child to a caretaker relative who is an applicant or recipient of such
32 assistance on the child's behalf, the applicant, recipient or obligee is also
33 deemed to have appointed the secretary, or the secretary's designee, as
34 an attorney in fact to perform the specific act of negotiating and endorsing
35 all drafts, checks, money orders or other negotiable instruments repre-
36 senting support payments received by the secretary in behalf of any per-
37 son applying for, receiving or having received such assistance. This limited
38 power of attorney shall be effective from the date the secretary approves
39 the application for aid and shall remain in effect until the assignment of
40 support rights has been terminated in full.

41 (d) *Eligibility requirements for general assistance, the cost of which*
42 *is not shared by the federal government.* (1) General assistance may be
43 granted to eligible persons who do not qualify for financial assistance in

1 a program in which the federal government participates and who satisfy
2 the additional requirements prescribed by or under this subsection (d).

3 (A) To qualify for general assistance in any form a needy person must
4 have insufficient income or resources to provide a reasonable subsistence
5 compatible with decency and health and, except as provided for transi-
6 tional assistance, be a member of a family in which a minor child or a
7 pregnant woman resides or be unable to engage in employment. The
8 secretary shall adopt rules and regulations prescribing criteria for estab-
9 lishing when a minor child may be considered to be living with a family
10 and whether a person is able to engage in employment, including such
11 factors as age or physical or mental condition. Eligibility for general as-
12 sistance, other than transitional assistance, is limited to families in which
13 a minor child or a pregnant woman resides or to an adult or family in
14 which all legally responsible family members are unable to engage in
15 employment. Where a husband and wife are living together the combined
16 income or resources of both shall be considered in determining the eli-
17 gibility of either or both for such assistance unless otherwise prohibited
18 by law. The secretary in determining need of any applicant for or recipient
19 of general assistance shall not take into account the financial responsibility
20 of any individual for any applicant or recipient of general assistance unless
21 such applicant or recipient is such individual's spouse or such individual's
22 minor child or a minor stepchild if the stepchild is living with such indi-
23 vidual. In determining the need of an individual, the secretary may pro-
24 vide for income and resource exemptions.

25 (B) To qualify for general assistance in any form a needy person must
26 be a citizen of the United States or an alien lawfully admitted to the
27 United States and must be residing in the state of Kansas.

28 (2) General assistance in the form of transitional assistance may be
29 granted to eligible persons who do not qualify for financial assistance in
30 a program in which the federal government participates and who satisfy
31 the additional requirements prescribed by or under this subsection (d),
32 but who do not meet the criteria prescribed by rules and regulations of
33 the secretary relating to inability to engage in employment or are not a
34 member of a family in which a minor or a pregnant woman resides.

35 (3) In addition to the other requirements prescribed under this sub-
36 section (d), the secretary shall adopt rules and regulations which establish
37 community work experience program requirements for eligibility for the
38 receipt of general assistance in any form and which establish penalties to
39 be imposed when a work assignment under a community work experience
40 program requirement is not completed without good cause. The secretary
41 may adopt rules and regulations establishing exemptions from any such
42 community work experience program requirements. A first time failure
43 to complete such a work assignment requirement shall result in ineligi-

1 bility to receive general assistance for a period fixed by such rules and
2 regulations of not more than three calendar months. A subsequent failure
3 to complete such a work assignment requirement shall result in a period
4 fixed by such rules and regulations of ineligibility of not more than six
5 calendar months.

6 (4) If any person is found guilty of the crime of theft under the pro-
7 visions of K.S.A. 39-720, and amendments thereto, such person shall
8 thereby become forever ineligible to receive any form of general assis-
9 tance under the provisions of this subsection (d) unless the conviction is
10 the person's first conviction under the provisions of K.S.A. 39-720, and
11 amendments thereto, or the law of any other state concerning welfare
12 fraud. First time offenders convicted of a misdemeanor under the pro-
13 visions of such statute shall become ineligible to receive any form of
14 general assistance for a period of 12 calendar months from the date of
15 conviction. First time offenders convicted of a felony under the provisions
16 of such statute shall become ineligible to receive any form of general
17 assistance for a period of 60 calendar months from the date of conviction.
18 If any person is found guilty by a court of competent jurisdiction of any
19 state other than the state of Kansas of a crime involving welfare fraud,
20 such person shall thereby become forever ineligible to receive any form
21 of general assistance under the provisions of this subsection (d) unless
22 the conviction is the person's first conviction under the law of any other
23 state concerning welfare fraud. First time offenders convicted of a mis-
24 demeanor under the law of any other state concerning welfare fraud shall
25 become ineligible to receive any form of general assistance for a period
26 of 12 calendar months from the date of conviction. First time offenders
27 convicted of a felony under the law of any other state concerning welfare
28 fraud shall become ineligible to receive any form of general assistance for
29 a period of 60 calendar months from the date of conviction.

30 (e) *Requirements for medical assistance for which federal moneys or*
31 *state moneys or both are expended.* (1) When the secretary has adopted
32 a medical care plan under which federal moneys or state moneys or both
33 are expended, medical assistance in accordance with such plan shall be
34 granted to any person who is a citizen of the United States or who is an
35 alien lawfully admitted to the United States and who is residing in the
36 state of Kansas, whose resources and income do not exceed the levels
37 prescribed by the secretary. In determining the need of an individual, the
38 secretary may provide for income and resource exemptions and protected
39 income and resource levels. Resources from inheritance shall be counted.
40 A disclaimer of an inheritance pursuant to K.S.A. 59-2291, and amend-
41 ments thereto, shall constitute a transfer of resources. The secretary shall
42 exempt principal and interest held in irrevocable trust pursuant to sub-
43 section (c) of K.S.A. 16-303, and amendments thereto, from the eligibility

1 requirements of applicants for and recipients of medical assistance. Such
2 assistance shall be known as medical assistance.

3 (2) For the purposes of medical assistance eligibility determinations
4 on or after July 1, 2004, if an applicant or recipient owns property in joint
5 tenancy with some other party and the applicant or recipient of medical
6 assistance has restricted or conditioned their interest in such property to
7 a specific and discrete property interest less than 100%, then such des-
8 ignation will cause the full value of the property to be considered an
9 available resource to the applicant or recipient.

10 (3) (A) Resources from trusts shall be considered when determining
11 eligibility of a trust beneficiary for medical assistance. Medical assistance
12 is to be secondary to all resources, including trusts, that may be available
13 to an applicant or recipient of medical assistance.

14 (B) If a trust has discretionary language, the trust shall be considered
15 to be an available resource to the extent, using the full extent of discretion,
16 the trustee may make any of the income or principal available to the
17 applicant or recipient of medical assistance. Any such discretionary trust
18 shall be considered an available resource unless: (i) At the time of creation
19 or amendment of the trust, the trust states a clear intent that the trust is
20 supplemental to public assistance; and (ii) the trust: (a) Is funded from
21 resources of a person who, at the time of such funding, owed no duty of
22 support to the applicant or recipient of medical assistance; or (b) is funded
23 not more than nominally from resources of a person while that person
24 owed a duty of support to the applicant or recipient of medical assistance.

25 (C) For the purposes of this paragraph, “public assistance” includes,
26 but is not limited to, medicaid, medical assistance or title XIX of the social
27 security act.

28 (4) (A) When an applicant or recipient of medical assistance is a party
29 to a contract, agreement or accord for personal services being provided
30 by a nonlicensed individual or provider and such contract, agreement or
31 accord involves health and welfare monitoring, pharmacy assistance, case
32 management, communication with medical, health or other professionals,
33 or other activities related to home health care, long term care, medical
34 assistance benefits, or other related issues, any moneys paid under such
35 contract, agreement or accord shall be considered to be an available re-
36 source unless the following restrictions are met: (i) The contract, agree-
37 ment or accord must be in writing and executed prior to any services
38 being provided; (ii) the moneys paid are in direct relationship with the
39 fair market value of such services being provided by similarly situated and
40 trained nonlicensed individuals; (iii) if no similarly situated nonlicensed
41 individuals or situations can be found, the value of services will be based
42 on federal hourly minimum wage standards; (iv) such individual providing
43 the services will report all receipts of moneys as income to the appropriate

1 state and federal governmental revenue agencies; (v) any amounts due
2 under such contract, agreement or accord shall be paid after the services
3 are rendered; (vi) the applicant or recipient shall have the power to revoke
4 the contract, agreement or accord; and (vii) upon the death of the appli-
5 cant or recipient, the contract, agreement or accord ceases.

6 (B) When an applicant or recipient of medical assistance is a party to
7 a written contract for personal services being provided by a licensed
8 health professional or facility and such contract involves health and wel-
9 fare monitoring, pharmacy assistance, case management, communication
10 with medical, health or other professionals, or other activities related to
11 home health care, long term care, medical assistance benefits or other
12 related issues, any moneys paid in advance of receipt of services for such
13 contracts shall be considered to be an available resource.

14 (5) Any trust may be amended if such amendment is permitted by
15 the Kansas uniform trust code.

16 (f) *Eligibility for medical assistance of resident receiving medical care*
17 *outside state.* A person who is receiving medical care including long-term
18 care outside of Kansas whose health would be endangered by the post-
19 ponement of medical care until return to the state or by travel to return
20 to Kansas, may be determined eligible for medical assistance if such in-
21 dividual is a resident of Kansas and all other eligibility factors are met.
22 Persons who are receiving medical care on an ongoing basis in a long-
23 term medical care facility in a state other than Kansas and who do not
24 return to a care facility in Kansas when they are able to do so, shall no
25 longer be eligible to receive assistance in Kansas unless such medical care
26 is not available in a comparable facility or program providing such medical
27 care in Kansas. For persons who are minors or who are under guardi-
28 anship, the actions of the parent or guardian shall be deemed to be the
29 actions of the child or ward in determining whether or not the person is
30 remaining outside the state voluntarily.

31 (g) *Medical assistance; assignment of rights to medical support and*
32 *limited power of attorney; recovery from estates of deceased recipients.*

33 (1) Except as otherwise provided in K.S.A. 39-786 and 39-787, and
34 amendments thereto, or as otherwise authorized on and after September
35 30, 1989, under section 303 and amendments thereto of the federal medi-
36 care catastrophic coverage act of 1988, whichever is applicable, by ap-
37 plying for or receiving medical assistance under a medical care plan in
38 which federal funds are expended, any accrued, present or future rights
39 to support and any rights to payment for medical care from a third party
40 of an applicant or recipient and any other family member for whom the
41 applicant is applying shall be deemed to have been assigned to the sec-
42 retary on behalf of the state. The assignment shall automatically become
43 effective upon the date of approval for such assistance without the re-

1 requirement that any document be signed by the applicant or recipient. By
2 applying for or receiving medical assistance the applicant or recipient is
3 also deemed to have appointed the secretary, or the secretary's designee,
4 as an attorney in fact to perform the specific act of negotiating and en-
5 dorsing all drafts, checks, money orders or other negotiable instruments,
6 representing payments received by the secretary in behalf of any person
7 applying for, receiving or having received such assistance. This limited
8 power of attorney shall be effective from the date the secretary approves
9 the application for assistance and shall remain in effect until the assign-
10 ment has been terminated in full. The assignment of any rights to pay-
11 ment for medical care from a third party under this subsection shall not
12 prohibit a health care provider from directly billing an insurance carrier
13 for services rendered if the provider has not submitted a claim covering
14 such services to the secretary for payment. Support amounts collected on
15 behalf of persons whose rights to support are assigned to the secretary
16 only under this subsection and no other shall be distributed pursuant to
17 subsection (d) of K.S.A. 39-756, and amendments thereto, except that
18 any amounts designated as medical support shall be retained by the sec-
19 retary for repayment of the unreimbursed portion of assistance. Amounts
20 collected pursuant to the assignment of rights to payment for medical
21 care from a third party shall also be retained by the secretary for repay-
22 ment of the unreimbursed portion of assistance.

23 (2) The amount of any medical assistance paid after June 30, 1992,
24 under the provisions of subsection (e) is (A) a claim against the property
25 or any interest therein belonging to and a part of the estate of any de-
26 ceased recipient or, if there is no estate, the estate of the surviving spouse,
27 if any, shall be charged for such medical assistance paid to either or both,
28 and (B) a claim against any funds of such recipient or spouse in any
29 account under K.S.A. 9-1215, 9-1216, 17-2263, 17-2264, 17-5828 or 17-
30 5829, and amendments thereto. There shall be no recovery of medical
31 assistance correctly paid to or on behalf of an individual under subsection
32 (e) except after the death of the surviving spouse of the individual, if any,
33 and only at a time when the individual has no surviving child who is under
34 21 years of age or is blind or permanently and totally disabled. Transfers
35 of real or personal property by recipients of medical assistance without
36 adequate consideration are voidable and may be set aside. Except where
37 there is a surviving spouse, or a surviving child who is under 21 years of
38 age or is blind or permanently and totally disabled, the amount of any
39 medical assistance paid under subsection (e) is a claim against the estate
40 in any guardianship or conservatorship proceeding. The monetary value
41 of any benefits received by the recipient of such medical assistance under
42 long-term care insurance, as defined by K.S.A. 40-2227, and amendments
43 thereto, shall be a credit against the amount of the claim provided for

1 such medical assistance under this subsection (g). The secretary is au-
2 thorized to enforce each claim provided for under this subsection (g).
3 The secretary shall not be required to pursue every claim, but is granted
4 discretion to determine which claims to pursue. All moneys received by
5 the secretary from claims under this subsection (g) shall be deposited in
6 the social welfare fund. The secretary may adopt rules and regulations
7 for the implementation and administration of the medical assistance re-
8 covery program under this subsection (g).

9 (3) By applying for or receiving medical assistance under the provi-
10 sions of article 7 of chapter 39 of the Kansas Statutes Annotated, such
11 individual or such individual's agent, fiduciary, guardian, conservator, rep-
12 resentative payee or other person acting on behalf of the individual con-
13 sents to the following definitions of estate and the results therefrom:

14 (A) If an individual receives any medical assistance before July 1,
15 2004, pursuant to article 7 of chapter 39 of the Kansas Statutes Annotated,
16 which forms the basis for a claim under subsection (g)(2), such claim is
17 limited to the individual's probatable estate as defined by applicable law;
18 and

19 (B) if an individual receives any medical assistance on or after July 1,
20 2004, pursuant to article 7 of chapter 39 of the Kansas Statutes Annotated,
21 which forms the basis for a claim under subsection (g)(2), such claim shall
22 apply to the individual's medical assistance estate. The medical assistance
23 estate is defined as including all real and personal property and other
24 assets in which the deceased individual had any legal title or interest
25 immediately before or at the time of death to the extent of that interest
26 or title. The medical assistance estate includes, without limitation assets
27 conveyed to a survivor, heir or assign of the deceased recipient through
28 joint tenancy, tenancy in common, survivorship, transfer-on-death deed,
29 payable-on-death contract, life estate, trust, annuities or similar
30 arrangement.

31 (4) The secretary of social and rehabilitation services or the secre-
32 tary's designee is authorized to file and enforce a lien against the real
33 property of a recipient of medical assistance in certain situations, subject
34 to all prior liens of record. The lien must be filed in the office of the
35 register of deeds of the county where the real property is located and
36 must contain the legal description of all real property in the county subject
37 to the lien. This lien is for payments of medical assistance made by the
38 department of social and rehabilitation services to the recipient who is an
39 inpatient in a nursing home or other medical institution. Such lien may
40 be filed only after notice and an opportunity for a hearing has been given.
41 Such lien may be enforced only upon competent medical testimony that
42 the recipient cannot reasonably be expected to be discharged and re-
43 turned home. A six-month period of compensated inpatient care at a

1 nursing home, nursing homes or other medical institution shall constitute
2 a determination by the department of social and rehabilitation services
3 that the recipient cannot reasonably be expected to be discharged and
4 returned home. To return home means the recipient leaves the nursing
5 or medical facility and resides in the home on which the lien has been
6 placed for a period of at least 90 days without being readmitted as an
7 inpatient to a nursing or medical facility. The amount of the lien shall be
8 for the amount of assistance paid by the department of social and reha-
9 bilitation services after the expiration of six months from the date the
10 recipient became eligible for compensated inpatient care at a nursing
11 home, nursing homes or other medical institution until the time of the
12 filing of the lien and for any amount paid thereafter for such medical
13 assistance to the recipient.

14 (5) The lien filed by the secretary or the secretary's designee for med-
15 ical assistance correctly received may be enforced before or after the
16 death of the recipient by the filing of an action to foreclose such lien in
17 the Kansas district court or through an estate probate court action in the
18 county where the real property of the recipient is located. However, it
19 may be enforced only:

20 (A) After the death of the surviving spouse of the recipient;

21 (B) when there is no child of the recipient, natural or adopted, who
22 is 20 years of age or less residing in the home;

23 (C) when there is no adult child of the recipient, natural or adopted,
24 who is blind or disabled residing in the home; or

25 (D) when no brother or sister of the recipient is lawfully residing in
26 the home, who has resided there for at least one year immediately before
27 the date of the recipient's admission to the nursing or medical facility,
28 and has resided there on a continuous basis since that time.

29 (6) The lien remains on the property even after a transfer of the title
30 by conveyance, sale, succession, inheritance or will unless one of the fol-
31 lowing events occur:

32 (A) The lien is satisfied. The recipient, the heirs, personal represen-
33 tative or assigns of the recipient may discharge such lien at any time by
34 paying the amount of the lien to the secretary or the secretary's designee;

35 (B) the lien is terminated by foreclosure of prior lien of record or
36 settlement action taken in lieu of foreclosure;

37 (C) the value of the real property is consumed by the lien, at which
38 time the secretary or the secretary's designee may force the sale for the
39 real property to satisfy the lien; or

40 (D) after a lien is filed against the real property, it will be dissolved
41 if the recipient leaves the nursing or medical facility and resides in the
42 property to which the lien is attached for a period of more than 90 days
43 without being readmitted as an inpatient to a nursing or medical facility,

1 even though there may have been no reasonable expectation that this
2 would occur. If the recipient is readmitted to a nursing or medical facility
3 during this period, and does return home after being released, another
4 90 days must be completed before the lien can be dissolved.

5 (7) If the secretary of social and rehabilitation services or the secre-
6 tary's designee has not filed an action to foreclose the lien in the Kansas
7 district court in the county where the real property is located within 10
8 years from the date of the filing of the lien, then the lien shall become
9 dormant, and shall cease to operate as a lien on the real estate of the
10 recipient. Such dormant lien may be revived in the same manner as a
11 dormant judgment lien is revived under K.S.A. 60-2403 et seq., and
12 amendments thereto.

13 (h) *Placement under the revised Kansas code for care of children or*
14 *revised Kansas juvenile justice code; assignment of support rights and*
15 *limited power of attorney.* In any case in which the secretary of social and
16 rehabilitation services pays for the expenses of care and custody of a child
17 pursuant to K.S.A. 2008 Supp. 38-2201 et seq. or 38-2301 et seq., and
18 amendments thereto, including the expenses of any foster care place-
19 ment, an assignment of all past, present and future support rights of the
20 child in custody possessed by either parent or other person entitled to
21 receive support payments for the child is, by operation of law, conveyed
22 to the secretary. Such assignment shall become effective upon placement
23 of a child in the custody of the secretary or upon payment of the expenses
24 of care and custody of a child by the secretary without the requirement
25 that any document be signed by the parent or other person entitled to
26 receive support payments for the child. When the secretary pays for the
27 expenses of care and custody of a child or a child is placed in the custody
28 of the secretary, the parent or other person entitled to receive support
29 payments for the child is also deemed to have appointed the secretary,
30 or the secretary's designee, as attorney in fact to perform the specific act
31 of negotiating and endorsing all drafts, checks, money orders or other
32 negotiable instruments representing support payments received by the
33 secretary on behalf of the child. This limited power of attorney shall be
34 effective from the date the assignment to support rights becomes effective
35 and shall remain in effect until the assignment of support rights has been
36 terminated in full.

37 (i) No person who voluntarily quits employment or who is fired from
38 employment due to gross misconduct as defined by rules and regulations
39 of the secretary or who is a fugitive from justice by reason of a felony
40 conviction or charge shall be eligible to receive public assistance benefits
41 in this state. Any recipient of public assistance who fails to timely comply
42 with monthly reporting requirements under criteria and guidelines pre-
43 scribed by rules and regulations of the secretary shall be subject to a

1 penalty established by the secretary by rules and regulations.

2 (j) If the applicant or recipient of aid to families with dependent chil-
3 dren is a mother of the dependent child, as a condition of the mother's
4 eligibility for aid to families with dependent children the mother shall
5 identify by name and, if known, by current address the father of the
6 dependent child except that the secretary may adopt by rules and regu-
7 lations exceptions to this requirement in cases of undue hardship. Any
8 recipient of aid to families with dependent children who fails to cooperate
9 with requirements relating to child support enforcement under criteria
10 and guidelines prescribed by rules and regulations of the secretary shall
11 be subject to a penalty established by the secretary by rules and regula-
12 tions which penalty shall progress to ineligibility for the family after three
13 months of noncooperation.

14 (k) By applying for or receiving child care benefits or food stamps,
15 the applicant or recipient shall be deemed to have assigned, pursuant to
16 K.S.A. 39-756 and amendments thereto, to the secretary on behalf of the
17 state only accrued, present or future rights to support from any other
18 person such applicant may have in such person's own behalf or in behalf
19 of any other family member for whom the applicant is applying for or
20 receiving aid. The assignment of support rights shall automatically be-
21 come effective upon the date of approval for or receipt of such aid without
22 the requirement that any document be signed by the applicant or recip-
23 ient. By applying for or receiving child care benefits or food stamps, the
24 applicant or recipient is also deemed to have appointed the secretary, or
25 the secretary's designee, as an attorney in fact to perform the specific act
26 of negotiating and endorsing all drafts, checks, money orders or other
27 negotiable instruments representing support payments received by the
28 secretary in behalf of any person applying for, receiving or having received
29 such assistance. This limited power of attorney shall be effective from the
30 date the secretary approves the application for aid and shall remain in
31 effect until the assignment of support rights has been terminated in full.
32 An applicant or recipient who has assigned support rights to the secretary
33 pursuant to this subsection shall cooperate in establishing and enforcing
34 support obligations to the same extent required of applicants for or re-
35 cipients of aid to families with dependent children.

36 (l) (1) Applicants for ~~public cash~~ assistance as a condition of eligi-
37 bility for ~~any form of public cash~~ assistance and persons receiving ~~public~~
38 ~~cash~~ assistance as a condition of continued receipt of ~~cash~~ assistance shall
39 agree to participate in a program of ~~random~~ drug screening. ~~The Within~~
40 ~~the limits of appropriations therefor, the~~ program of ~~random~~ drug
41 screening for ~~public cash~~ assistance recipients shall be established, subject
42 to applicable federal law ~~and medicaid participation requirements~~, by the
43 ~~Kansas health policy authority~~ **secretary of social and rehabilitation**

1 **services on or before January 1, ~~2010~~ 2011. Subject to appropriations**
2 **therefor, such program shall provide for random drug screening**
3 **of approximately 1/3 of cash assistance recipients each year. A ~~public~~**
4 **cash assistance recipient who tests positive for use of an illegal substance**
5 **shall undergo a drug evaluation and if indicated by the evaluation be**
6 **required to complete an educational or treatment program recommended**
7 **as a result of the evaluation.**

8 (2) ~~Subject to applicable federal laws, any ~~welfare~~ cash assistance~~
9 ~~recipient who fails to complete the educational or treatment program [re-~~
10 **quired under this subsection (1)] shall be terminated from ~~public cash~~**
11 **assistance. After completion of such educational or treatment program,**
12 **the ~~public cash~~ assistance recipient shall be subject to periodic drug**
13 **screening. [Upon a second positive test for use of an illegal sub-**
14 **stance, the cash assistance recipient shall complete again an edu-**
15 **cational or treatment program for substance abuse.] Upon a ~~second~~**
16 **[third] positive test for use of an illegal substance, the ~~public cash~~ assis-**
17 **tance recipient, subject to applicable federal law, if any, shall be termi-**
18 **nated from ~~public cash~~ assistance.**

19 (3) ~~Except for hearings before the ~~Kansas health policy authority~~ de-~~
20 **partment of social and rehabilitation services or criminal prosecu-
21 ~~tions, the results of any test administered as part of the drug screening~~
22 ~~program authorized by this section shall be confidential and shall not be~~
23 ~~disclosed publicly.~~**

24 (4) ~~The ~~Kansas health policy authority~~ secretary of social and re-~~
25 **habilitation services may adopt such rules and regulations as necessary**
26 **to carry out the provisions of this section. ~~The costs of the drug screening,~~**
27 **~~evaluation and treatment under this program shall be paid from moneys~~**
28 **~~derived from asset seizure and forfeiture under K.S.A. 60-4117, and~~**
29 **~~amendments thereto, and any federal moneys which may be available for~~**
30 **~~such purpose.~~**

31 (5) **The secretary of social and rehabilitation services shall re-**
32 **port on or before January 31, 2012, and annually thereafter on or**
33 **before January 31 to the chairperson of the house committee on**
34 **appropriations, the chairperson of the house committee on health**
35 **and human services, the chairperson of the senate committee on**
36 **ways and mean and the chairperson of the senate committee on**
37 **public health and welfare concerning the operation and adminis-**
38 **tration of the drug screening program established under this**
39 **subsection.**

40 (6) **As used in this subsection, “cash assistance” means cash**
41 **assistance provided to individuals under the provisions of article**
42 **7 of chapter 39 of the Kansas Statutes Annotated, and acts amen-**
43 **datory thereof or supplemental thereto, ~~and under K.S.A. 2008~~**

1 ~~Supp. 38-147, and amendments thereto, and any rules and regu-~~
2 ~~lations adopted pursuant to such statutes.~~

3 (7) During the 2011 regular session of the legislature, the leg-
4 islature shall review the progress of the implementation of the
5 program of drug screening for cash assistance recipients estab-
6 lished under this subsection.

7 ~~Sec. 2. K.S.A. 2008 Supp. 60-4117 is hereby amended to read as~~
8 ~~follows: 60-4117. Except as provided in K.S.A. 65-7014, and amendments~~
9 ~~thereto, and as otherwise provided in this section: (a) When property is~~
10 ~~forfeited under this act, the law enforcement agency may:~~

11 ~~—(1) Retain such property for official use or transfer the custody or~~
12 ~~ownership to any local, state or federal agency, subject to any lien pre-~~
13 ~~served by the court;~~

14 ~~—(2) destroy or use for investigative or training purposes, any illegal or~~
15 ~~controlled substances and equipment or other contraband, provided that~~
16 ~~materials necessary as evidence shall be preserved;~~

17 ~~—(3) sell property which is not required by law to be destroyed and~~
18 ~~which is not harmful to the public:~~

19 ~~—(A) All property, except real property, designated by the seizing~~
20 ~~agency to be sold shall be sold at public sale to the highest bidder for~~
21 ~~cash without appraisal. The seizing agency shall first cause notice of the~~
22 ~~sale to be made by publication at least once in an official county news-~~
23 ~~paper as defined by K.S.A. 64-101, and amendments thereto. Such notice~~
24 ~~shall include the time, place, and conditions of the sale and description~~
25 ~~of the property to be sold. Nothing in this subsection shall prevent a state~~
26 ~~agency from using the state surplus property system and such system's~~
27 ~~procedures shall be sufficient to meet the requirements of this subsection.~~

28 ~~—(B) Real property may be sold pursuant to subsection (A), or the~~
29 ~~seizing agency may contract with a real estate company, licensed in this~~
30 ~~state, to list, advertise and sell such real property in a commercially rea-~~
31 ~~sonable manner.~~

32 ~~—(C) No employee or public official of any agency involved in the in-~~
33 ~~vestigation, seizure or forfeiture of seized property may purchase or at-~~
34 ~~tempt to purchase such property; or~~

35 ~~—(4) salvage the property, subject to any lien preserved by the court.~~

36 ~~—(b) When firearms are forfeited under this act, the firearms in the~~
37 ~~discretion of the seizing agency, shall be destroyed, used within the seiz-~~
38 ~~ing agency for official purposes, traded to another law enforcement~~
39 ~~agency for use within such agency or given to the Kansas bureau of in-~~
40 ~~vestigation for law enforcement, testing, comparison or destruction by~~
41 ~~the Kansas bureau of investigation forensic laboratory.~~

42 ~~—(c) The proceeds of any sale shall be distributed in the following order~~
43 ~~of priority:~~

1 ~~—(1) For satisfaction of any court preserved security interest or lien,~~
2 ~~or in the case of a violation, as defined by subsection (h) of K.S.A. 60-~~
3 ~~4104, and amendments thereto, the proceeds shall be remitted to the~~
4 ~~state treasurer in accordance with the provisions of K.S.A. 75-4215, and~~
5 ~~amendments thereto. Upon receipt of such remittance, the state treasurer~~
6 ~~shall deposit the entire amount into the state treasury to the credit of the~~
7 ~~medicaid fraud reimbursement fund;~~
8 ~~—(2) thereafter, for payment of all proper expenses of the proceedings~~
9 ~~for forfeiture and disposition, including expenses of seizure, inventory,~~
10 ~~appraisal, maintenance of custody, preservation of availability, advertising,~~
11 ~~service of process, sale and court costs;~~
12 ~~—(3) reasonable attorney fees:~~
13 ~~—(A) If the plaintiff's attorney is a county or district attorney, an assis-~~
14 ~~tant, or another governmental agency's attorney, fees shall not exceed~~
15 ~~15% of the total proceeds, less the amounts of subsection (c)(1) and (2),~~
16 ~~in an uncontested forfeiture nor 20% of the total proceeds, less the~~
17 ~~amounts of subsection (c)(1) and (2), in a contested forfeiture. Such fees~~
18 ~~shall be deposited in the county or city treasury and credited to the special~~
19 ~~prosecutor's trust fund. Moneys in such fund shall not be considered a~~
20 ~~source of revenue to meet normal operating expenditures, including sal-~~
21 ~~ary enhancement. Such fund shall be expended by the county or district~~
22 ~~attorney, or other governmental agency's attorney through the normal~~
23 ~~county or city appropriation system and shall be used for such additional~~
24 ~~law enforcement and prosecutorial purposes as the county or district at-~~
25 ~~torney or other governmental agency's attorney deems appropriate, in-~~
26 ~~cluding educational purposes. All moneys derived from past or pending~~
27 ~~forfeitures shall be expended pursuant to this act. The board of county~~
28 ~~commissioners shall provide adequate funding to the county or district~~
29 ~~attorney's office to enable such office to enforce this act. Neither future~~
30 ~~forfeitures nor the proceeds therefrom shall be used in planning or adopt-~~
31 ~~ing a county or district attorney's budget;~~
32 ~~—(B) if the plaintiff's attorney is the attorney general and the conduct~~
33 ~~and offense giving rise to forfeiture is pursuant to subsection (h) of K.S.A.~~
34 ~~60-4104, and amendments thereto, fees shall not exceed 15% of the total~~
35 ~~proceeds, less the amounts of subsection (c)(1) and (2) in an uncontested~~
36 ~~forfeiture nor 20% of the total proceeds, less the amounts of subsection~~
37 ~~(c)(1) and (2) in a contested forfeiture. Such fees shall be remitted to the~~
38 ~~state treasurer in accordance with the provisions of K.S.A. 75-4215, and~~
39 ~~amendments thereto. Upon receipt of each such remittance, the state~~
40 ~~treasurer shall deposit the entire amount in the state treasury to the credit~~
41 ~~of the medicaid fraud prosecution revolving fund. Moneys paid into the~~
42 ~~medicaid fraud prosecution revolving fund pursuant to this subsection~~
43 ~~shall be appropriated to the attorney general for use by the attorney gen-~~

1 eral in the investigation and prosecution of medicaid fraud and abuse, or
2 —(C)— if the plaintiff's attorney is a private attorney, such reasonable
3 fees shall be negotiated by the employing law enforcement agency;
4 —(4)— repayment of law enforcement funds expended in purchasing of
5 contraband or controlled substances, subject to any interagency
6 agreement.
7 —(d)— Any proceeds remaining shall be credited as follows, subject to
8 any interagency agreement:
9 —(1)— If the law enforcement agency is a state agency, the entire amount
10 shall be deposited in the state treasury and credited to such agency's state
11 forfeiture fund, *except that if the proceeds are the result of a violation of*
12 *the uniform controlled substances act, K.S.A. 65-4101 et seq., and amend-*
13 *ments thereto, the amount of proceeds attributable to such violation shall*
14 *be deposited in the state treasury and used to pay for the program of*
15 *random drug screening established under subsection (l) of K.S.A. 39-709,*
16 *and amendments thereto, if available, to the amount certified by the Kan-*
17 *sas health policy authority. If any additional proceeds, which are attrib-*
18 *utable to violations of the uniform controlled substances act, remain after*
19 *payment of such amount, then these proceeds shall be credited as provided*
20 *in this subsection (d).* There is hereby established in the state treasury
21 the following state funds: Kansas bureau of investigation state forfeiture
22 fund, Kansas attorney general's state medicaid fraud forfeiture fund, Kan-
23 sas highway patrol state forfeiture fund, Kansas department of corrections
24 state forfeiture fund and Kansas national guard counter drug state for-
25 feiture fund. Expenditures from the Kansas bureau of investigation state
26 forfeiture fund shall be made upon warrants of the director of accounts
27 and reports issued pursuant to vouchers approved by the attorney general
28 or by a person or persons designated by the attorney general. Expendi-
29 tures from the Kansas attorney general's state medicaid fraud forfeiture
30 fund shall be made upon warrants of the director of accounts and reports
31 issued pursuant to vouchers approved by the attorney general or by a
32 person or persons designated by the attorney general. Expenditures from
33 the Kansas highway patrol state forfeiture fund shall be made upon war-
34 rants of the director of accounts and reports issued pursuant to vouchers
35 approved by the superintendent of the highway patrol or by a person or
36 persons designated by the superintendent. Expenditures from the Kansas
37 department of corrections state forfeiture fund shall be made upon war-
38 rants of the director of accounts and reports issued pursuant to vouchers
39 approved by the secretary of the department of corrections or by a person
40 or persons designated by the secretary. Expenditures from the Kansas
41 national guard counter drug state forfeiture fund shall be made upon
42 warrants of the director of accounts and reports issued pursuant to vouch-
43 ers approved by the adjutant general of Kansas or by a person or persons

1 designated by the adjutant general. Each agency shall compile and submit
2 a forfeiture fund report to the legislature on or before February 1 of each
3 year. Such report shall include, but not be limited to: (A) The fund bal-
4 ance on December 1; (B) the deposits and expenditures for the previous
5 12-month period ending December 1. Upon the effective date of this act,
6 the director of accounts and reports is directed to transfer each agency's
7 balance in the state special asset forfeiture fund to the agency's new, state
8 forfeiture fund. All liabilities of the state special asset forfeiture fund
9 existing prior to such date are hereby imposed on the Kansas bureau of
10 investigation state forfeiture fund, Kansas highway patrol state forfeiture
11 fund and the Kansas department of corrections state forfeiture fund. The
12 state special asset forfeiture fund is hereby abolished.

13 ~~—(2)—~~ If the law enforcement agency is a city or county agency, the
14 entire amount shall be deposited in such city or county treasury and cred-
15 ited to a special law enforcement trust fund. Each agency shall compile
16 and submit annually a special law enforcement trust fund report to the
17 entity which has budgetary authority over such agency and such report
18 shall specify, for such period, the type and approximate value of the for-
19 feited property received, the amount of any forfeiture proceeds received,
20 and how any of those proceeds were expended.

21 ~~—(3)—~~ Moneys in the Kansas bureau of investigation state forfeiture
22 fund, Kansas highway patrol state forfeiture fund, Kansas department of
23 corrections state forfeiture fund, the special law enforcement trust funds
24 and the Kansas national guard counter drug state forfeiture fund shall not
25 be considered a source of revenue to meet normal operating expenses.
26 Such funds shall be expended by the agencies or departments through
27 the normal city, county or state appropriation system and shall be used
28 for such special, additional law enforcement purposes as the law enforce-
29 ment agency head deems appropriate. Neither future forfeitures nor the
30 proceeds from such forfeitures shall be used in planning or adopting a
31 law enforcement agency's budget.

32 ~~—(4)—~~ Moneys in the Kansas attorney general's medicaid fraud forfeiture
33 fund shall defray costs of the attorney general in connection with the
34 duties of investigating and prosecuting medicaid fraud and abuse.

35 Sec. ~~3~~ **2**. K.S.A. 2008 Supp. 39-709 and ~~60-4117~~ are hereby
36 repealed.

37 Sec. **4 3**. This act shall take effect and be in force from and after
38 **July 1, 2010, and** its publication in the statute book.